

# MISDEMEANOR PROCEDURES FROM ARRAIGNMENT TO TRIAL<sup>1</sup>

## INDEX

I.	Arrest/First Appearances.....	1
II.	Procedures Prior to Trial Readiness.....	2
III.	Trial Readiness Hearings.....	3
IV.	Filing Pre-Trial Motions.....	8
V.	Motions for Setover After Call & Trial Dates Selected.....	8
VI.	Transport of In-Custody Defendants.....	8
VII.	Call / Trial Assignment.....	9
VIII.	Day of Trial.....	10
	Addendum – Domestic Violence Cases.....	11
	Addendum – Interpreter Services.....	15
	Addendum – Motions for Change of Judge.....	16

### I. ARRAIGNMENTS/FIRST APPEARANCES AT JUSTICE CENTER:<sup>2</sup>

- A. The Trial Readiness hearing date shall be set on the last Friday within 42 days (6 weeks) from the date of arraignment, and 21 days (3 weeks) for domestic violence cases. The date is the same for defendants whether in custody or out of custody. For cases in which the defendant is no longer eligible for community court based on prior failures to appear, trial readiness will be set four weeks from the new dates hearing.
1. Trial Readiness is divided into four dockets: A Docket for domestic violence cases; B Docket for private bar and consortium attorneys; C Docket for Metropolitan Public Defenders (MPD); and D Docket for Multnomah Defenders Inc. (MDI).
  2. The court order issued at arraignment shall designate the appropriate docket by stating whether it is assigned to 106A, 106B, 106C or 106D.
  3. Defendants must be present at Trial Readiness unless there is a court order waiving the defendant’s appearance. When requested at the time of arraignment, the judge may grant a waiver of appearance in appropriate cases.
  4. Arraignment courts will set only Trial Readiness dates and will not set trial dates.
  5. In cases in which the defendant is out of custody, the arraignment judge may adjust the Trial Readiness date to be set before or after the presumptive date, but in no case shall it be set beyond the Friday of the eighth week after arraignment.

<sup>1</sup> This document updates the Trial Readiness Rules first issued in 2013. It was reviewed by the Misdemeanor Workgroup over the course of 2018-2019. Unless otherwise altered by court order, the “Procedures Re: Disposition of Misdemeanor Cases in Criminal Procedure Court” issued in 2010 continue to apply pending an update.

<sup>2</sup> For assignment of cases to the East County Courthouse, see “Transfer of Cases Between Central Courthouse and East County Courthouse.”

- B. Discovery shall be provided as soon as possible after arraignment and, with the exception of forensic evaluation reports, no more than two weeks following arraignment. The State shall make reasonable efforts during this time frame to determine whether there is any additional audio, video or photographic evidence available, or supplemental police reports, and to take steps to preserve and procure that evidence.

**II. PROCEDURES PRIOR TO TRIAL READINESS HEARING:**

- A. The Deputy District Attorney shall be assigned to the case prior to the Trial Readiness date and shall pursue the objectives listed herein.
  - 1. The State shall make concerted efforts to extend written plea offers prior to the date of the Trial Readiness hearing, and at the direct request of defense.
  - 2. The State shall make efforts to contact victims to determine their availability for trial and whether they wish to be present at any plea or other hearing.
  - 3. If not already determined during the two weeks following arraignment, the State shall make reasonable efforts to determine the existence of all available discovery, to preserve and procure discovery, and to determine when discovery will become available, including audio, video or photographic evidence; additional police reports not filed with originals; forensic lab reports; and other expert reports. [Note that the defense may procure search warrants and affidavits from the Court file room.]
- B. The Defense Attorney shall:
  - 1. Make reasonable efforts to determine the existence of all available discovery as required by reciprocal discovery statutes, to preserve and procure discovery, and to determine when discovery will be available, including audio, video or photographic evidence.
  - 2. Determine whether the attorney is able to access any audio, video or photographic evidence provided by the state, and if not, to take steps to procure the necessary software or IT assistance or make other arrangements needed to view that evidence and to make arrangements for the client to be able to view the evidence.
  - 3. Make reasonable efforts to determine whether there will be expert evaluation needed, to take steps to procure expert's services, and to timely present any written report or evaluation to the State.
  - 4. If defendant is in need of an interpreter for any hearing, including Trial Readiness, Call or Trial, the defense attorney must advise Court Interpreter Services at least four days before the hearing by e-mailing Multnomah Interpreter Services at [MUL.Interpreter.Services@ojd.state.or.us](mailto:MUL.Interpreter.Services@ojd.state.or.us). See Addendum – Interpreter Services included below.
- C. The DDA and defense attorney shall check the availability of named victims, lay witnesses, officers, experts and their own schedule regarding availability in order to choose multiple possible dates during the period available for trial settings at the Trial Readiness date (eight weeks, plus an additional three weeks if no trial date is available in the eight weeks).

D. The defense attorney and DDA shall confer prior to the Trial Readiness date to:

1. Select a mutually agreeable trial date within the period that is available for trial settings at the Trial Readiness date.
2. Identify two alternative trial dates during the designated period.
3. If the parties are unable to select a date within those available dates, the parties may schedule a hearing on the 9 a.m. CPC Further Proceedings docket prior to the Trial Readiness date, or may follow the procedures set forth below in the Trial Readiness section. [Note: If setting a hearing on the 9 a.m. CPC Further Proceedings docket, in custody defendants will be transported unless there is a note made in Odyssey not to transport the defendant for that hearing or unless the attorney cancels the transport.]

E. To schedule a plea, change a Trial Readiness hearing, or handle other matters, attorneys must schedule a hearing on the 9 a.m. CPC Further Proceedings docket or present the matter at the time designated for ex parte hearings. Matters may be scheduled on the CPC docket by calling the criminal calendaring department (503-988-3235, Ext. 1) no later than 10:30 the day before. Absent compelling circumstances, Trial Readiness dates should not be delayed past the Friday of the eighth week following arraignment. Anyone seeking a delay of a Trial Readiness hearing for someone in custody must report on the defendant's 60-day status under ORS 136.290.

F. The Criminal Calendaring Department will assign judges to the individual dockets one to two weeks prior to the Trial Readiness docket.

1. In the week prior to Trial Readiness, the Criminal Calendaring department will send an e-mail to interested persons announcing which judges are assigned to which dockets. [Note: Persons who wish to be added to the e-mail list must contact [heather.a.castillo@ojd.state.or.us](mailto:heather.a.castillo@ojd.state.or.us).]
2. The Criminal Calendaring department will also assemble the available dates for call and trial assignments and will compile the dockets. That information will also be announced by e-mail.
3. On the day of Trial Readiness, the Criminal Calendaring department will place a large display in the Courthouse lobby advising parties which dockets are assigned to which courtrooms. Notice is also posted outside of Room 106.

### **III. TRIAL READINESS HEARINGS:**

A. Appearance of defendants:

1. Out of custody defendants shall appear unless there is a court order waiving the defendant's appearance and should be instructed to be present in the courtroom no later than 9 a.m.

2. In custody defendants shall not be transported to the courthouse jail for Trial Readiness unless requested by the defense attorney (e.g., to enter a plea before an available judge) by 10:30 am on the day prior to the Trial Readiness hearing for those defendants housed in a local Multnomah County jail facility. Defense attorneys should contact criminal calendaring (503-988-3235, Ext. 3) to arrange in-county transport. [Note: See Section VI below for full information on transporting defendants.]

B. Trial Readiness Reports:

1. The Misdemeanor Trial Readiness Hearing Case Report Form (and Order) shall be jointly completed by the DDA and defense attorney, and provided to the clerk prior to the case being called.
2. The State shall note the following on the Trial Readiness Report if not already provided and if known or determinable with reasonable effort:
  - a) Any outstanding discovery, including but not limited to the existence of any lab reports and when they are expected; BOEC recordings, witness statements, color photographs, videos, follow-up reports, etc).
  - b) Identity or type of any experts to be called;
  - c) Significant evidentiary motions at issue;
3. The defense attorney shall note the following on the Trial Readiness Report if known or is determinable with reasonable effort:
  - a) Whether there is outstanding discovery to be provided by the state or provided by the defendant (including BOEC recordings, witness statements, color photographs, video follow-up police reports, etc);
  - b) Whether the defense anticipates calling an expert and if so what type of expert;
  - c) Whether there are any motions to suppress or other significant motions to be filed;
  - d) Expiration of the 60<sup>th</sup> day in custody pursuant to ORS 136.290.<sup>3</sup>
4. If the defendant is not in custody in Multnomah County, the preferred method is to place a transport order for defendant no less than 10 days prior to call. See Section VI regarding transport procedures. The defense is not obligated to disclose the location of defendant's custody or to request transport. The court retains discretion in appropriate cases to issue a warrant.

C. Process for Selecting Trial Dates:

1. The Criminal Calendaring Department issues available trial dates for each Trial Readiness date. Dates provided are for the eight weeks following that Trial Readiness Date.
2. Parties must pick dates within those available dates. If the parties cannot find dates within those days, they may select a call and trial date within the three weeks following the dates provided by the Criminal Calendaring Department.
3. If parties are still unable to select a trial date, they must set a hearing on the 9 a.m. CPC Further Proceeding docket the following Tuesday, Wednesday or Thursday to pick dates. There is no CPC

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<sup>3</sup> In calculating 60 days, attorneys should take into account any tolling due to fitness to proceed concerns and incarceration prior to current term in jail.

docket on the days of Trial Readiness. Parties are not allowed to select new Trial Readiness dates on the day of Trial Readiness. [Exception: If stipulated, parties may set trial readiness to a later trial readiness date scheduled in a different case.]

- a) For out of custody defendants, the defendant's appearance is presumptively waived for that particular Further Proceedings date. Defendant must be advised to contact their attorney's office to obtain the dates.
  - b) For in-custody defendants, defense counsel can request that the defendant not be transported for that date. Otherwise, defendant will automatically be transported.
  - c) The CPC judge will determine whether there are compelling circumstances that justify setting the trial date beyond the available dates.
4. For trials set more than 30 days after the Trial Readiness date, the parties may select a "date check" date on the 9:05 CPC docket to determine whether the officers or other witnesses are still available. See Section III( D)(7) for more information regarding date checks. [Note the current form does not have a time slot for "9:05 a.m.," so attorneys should request the judge to include that time in the order section.]
- a) In custody defendants will not be transported for the 9:05 Date Check docket (but may be transported if the order fails to note the date check is set at 9:05).
  - b) Waiver of appearance is generally encouraged at Date Check dates for out of custody clients, but appearance may be required at the discretion of the Trial Readiness judge in cases involving prior failure to appear warrants or where the defendant doesn't have available contact information to provide to the court or defense attorney.
5. Parties may not request a continuance of the Trial Readiness date on the day of Trial Readiness. Parties must either select dates or set the case on the CPC 9 a.m. Further Proceeding docket to pick dates. Only the CPC judge may re-set new Trial Readiness dates and only in limited circumstances, including when there is a substitution of attorney, if a case comes back after a mistrial, or if other reasons exist why the parties cannot reasonably be expected to pick trial dates at the Further Proceedings docket. [Exception: If stipulated, parties may set trial readiness to a later trial readiness date already scheduled in a different case.]
6. The trial readiness judge may order cases to track with felonies if the felony DA and defense attorney stipulate. For VRO cases, see DV Addendum.
- a) For in custody defendants, the tracking order must include the expiration of the 60<sup>th</sup> day pursuant to ORS 136.290.
  - b) Cases tracking with felonies shall be given a backup date on the 10 a.m. "administrative tracking" docket in CPC on the Wednesday following the felony call date. Defense counsel and defendants are not required to appear for this matter.
7. The trial readiness judge may order traffic infraction cases to track pending misdemeanors.

8. Parties who wish to track misdemeanor probation violation cases with pending misdemeanors must obtain a written tracking order from either the probation judge, or if the matter is assigned to JC2, from the JC2 judge. The order should state the next assigned court date for the pending case. No felony cases or felony probation matters may track pending misdemeanor cases.

D. Process for Judge to Call the Trial Readiness Docket & Order Dates:

1. All Trial Readiness courts are to begin calling the docket at 9 a.m. in the order listed on the docket.
2. Attorneys directly report the selected trial date (and two alternate dates) to the judge. The clerk checks the dates reported by the attorneys and advises the court if the date is full or if the date has reached capacity. The judge sets the date if the date is available. Trial Readiness judges may not set another Trial Readiness date.
3. Trials are scheduled Mondays through Thursdays. Call dates are the day before the trial date, and on Thursday for Monday trials. If any case is expected to take five days or more, it must go on the regular morning docket in Room 208. Otherwise trial assignments are as follows:<sup>4</sup>
  - a) Trials set to begin on Mondays: 4 days or less.
  - b) Trials set to begin on Tuesdays: 3 days or less
  - c) Trials set to begin on Wednesdays: 2 days or less
  - d) Trials set to begin on Thursdays: 1 day or less.
4. The maximum number of total trials assigned out of trial assignment is 4 cases per judge/per day (which does not apply to the ½ day trial day for the A Docket judge).
  - a) Unless good cause is shown, out of custody Unlawful Possession of a Controlled Substance, Driving While Suspended and Failure to Register as a Sex Offender cases shall be set for trials on Wednesdays and Thursdays only to maximize utilization of these trial days.
  - b) A Trial Readiness judge or CPC judge may order an override of a day already at capacity in exceptional circumstances, which may include: in custody defendants with 60-day issues; interpreter matters, especially involving interpreters of less frequently-used languages; cases involving experts or witnesses who are flying in; or other appropriate exceptional circumstances as found by judge.
  - c) The priority for cases on each day will be determined prior to the time of Call, and the CPC judge will assign cases out in that priority. See Section VII for trial priority outline.

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<sup>4</sup> Trial assignments will be adjusted for weeks in which there are holidays or conferences scheduled. The DV judge has 2.5 days of trial availability beginning on Mondays.

5. The maximum number of defendants set on the call docket by the same attorney is four. The maximum number of defendants sent out for trial per attorney per day is two. If the cap is exceeded, the assigned attorney should move to re-set or carry excessive cases no later than three days prior to call. Otherwise the court may re-set excess cases at call in order of case age/priority.
6. If trial dates are more than 30 days away, the parties may select a “date check” date to be placed on the 9:05 docket in CPC. [Note the current form does not have a time slot for 9:05 a.m., so attorneys should request the judge or clerk to include that time in the order section.]
  - a) In custody defendants will not be transported for the 9:05 Date Check docket. [Note that if the order fails to state the date check docket is set for 9:05, the defendant will be transported unless the defense cancels the transport.]
  - b) Waiver of appearance is generally encouraged at Date Check dates for out of custody clients, but appearance may be required at the discretion of the Trial Readiness judge in cases involving prior failure to appear warrants or where the defendant doesn’t have available contact information to provide to the court or defense attorney.

E. Other Matters on Trial Readiness Day:

1. No release hearings shall be heard at Trial Readiness. However, the judge may grant release if the parties stipulate to release and to conditions of release.
2. Pleas may be taken by the Trial Readiness judges as time allows by integrating them into the Trial Readiness morning docket.
3. Pleas may also be set on the CPC 9 a.m .Further Proceedings docket for any Tuesday, Wednesday or Thursday. See the DV Addendum for matters particular to the A Docket.
4. Out of custody Treatment First pleas may be set on the Treatment First Docket on one of the following two Fridays. They are not to be sent on an ad hoc basis to the Treatment First Docket on the same day as Trial Readiness.
5. In custody Treatment First pleas may occur at Trial Readiness or by setting them on the CPC docket. Attorneys must provide the appropriate Treatment First orders and forms to the court taking the plea.
6. The economic damages/reckless compensation docket for “reckless driving setover” pleas is assigned to the judge handling the B docket to begin at 10:30 a.m.
7. The Treatment First docket is set at 9 a.m. on Fridays before one of the judges presiding over STOP court.
8. The Expedited DUII/First Conviction Plea docket is set at 10:15 a.m. on Fridays before one of the judges assigned to that docket.
9. The DUII Diversion Entry docket is set at 1:30 before the judge handling that docket.

**IV. FILING PRE-TRIAL MOTIONS:**

- A. Per UTCR 4.010, motions for pretrial rulings pursuant to ORS 135.037 and ORS 135.805 to 135.873, including motions to suppress, must be filed in writing not less than 21 days before trial unless a different time is permitted by the court for good cause shown.
- B. In considering whether a party has made a good cause showing, the court will consider: the constitutional nature of the motion; whether the late-filed motion sufficiently apprise the court and the opposing party of the arguments relied upon; whether the opposing party has had an opportunity to consider the merits, secure necessary witnesses, and to file a response to the motion; and other relevant factors raised by the parties.<sup>5</sup>
- C. The trial court retains discretion to grant or deny setovers due to late-filed motions and to deny the hearing of a motion as untimely.

**V. MOTIONS FOR SETOVER AFTER CALL & TRIAL DATES SELECTED:**

- A. There are no automatic setovers for either side.
- B. Motions for setovers after a case has already had call and trial dates set shall be scheduled on the 9 a.m. CPC further proceedings docket or discussed at the Date Check date.
  - 1. The Trial Readiness concept changes the traditional procedure of assigning court dates and instead gives parties significant leeway to select trial dates of their choice. As such, there must be compelling circumstances to grant the setover. Failure to prepare for trial because a case was in a “settlement posture” or failure to make reasonable efforts to procure evidence are not grounds for setover.
  - 2. Cases must be heard within 120 days from issuance. The court retains discretion to deny setovers that will take a case past that date and/or to make a case “date certain.” Once a case is date certain, continuances of trial will be allowed only for exceptional compelling circumstances.
  - 3. If a motion for continuance arises during the week the trial is set, the moving attorney with opposing counsel (or without opposing counsel if by consent) shall appear in CPC for a ruling at the time designated for ex parte by the CPC judge. If the defendant is not present at the time new trial dates are set, the defendant must be present at any subsequent “date check” unless the defense attorney can verify the new dates have been directly communicated to the defendant and the defendant has acknowledged receiving them. Waiver will be at the discretion of the court.

**VI. TRANSPORT OF IN-CUSTODY DEFENDANTS:**

- A. Defendants in custody in Multnomah County will automatically be transported by the court in the following circumstances unless defense requests no transport for that day (other than trial):

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<sup>5</sup> See, *State v. Peterson*, 251 Or App 87, 91-92 (2012).



1. For 9 a.m. CPC Further Proceedings;
  2. For each reported day of trial. Note: If trial goes beyond the original time reported (i.e., to a third day for a two-day trial), the parties will need to alert the trial clerk to the need for transport as soon as the parties know of the extension.
  3. For release hearings.
  4. For scheduled pleas.
  5. For substitution of attorney hearings.
- B. Defendants in custody in Multnomah County will *not* automatically be transported for:
1. Trial Readiness.
  2. Call/Trial Assignment
  3. The 9:05 a.m. Date Check docket [Note that unless the phrase “date check” or the time of “9:05” appears on the order for a date check, the defendant will be transported for the hearing.]
- C. Attorneys who wish to either have their client transported or have their client not transported should call Criminal Calendaring at (503-988-3235 ext. 3). Criminal calendaring must receive transport requests no later than 10:30 a.m. the day before the defendant is to be transported in order to accommodate the Restraint Docket.
- D. For those defendants not housed in a Multnomah County jail facility:
1. If the defense is requesting defendant’s presence for any hearing, defense counsel must submit a request for a transport order at least ten days prior to the hearing date, preferably 14 days prior.
  2. The District Attorney’s office must submit a request for a transport order for trials at least 10 days prior to the trial date, preferably 14 days prior based on information known to the District Attorney’s office at the time.
  3. If the person is in custody in another county, the defense or State must determine whether the person has any pending court proceedings in that county and present the status of that proceeding to the judge signing the transport order. Defendants may not be transported if they have pending court dates in that county; however, the judge may still order the transport for good cause shown.
  4. If the person is not transported, the court may issue a warrant or continuance at the court’s discretion.

## **VII. CALL/TRIAL ASSIGNMENT:**

- A. Cases will appear on the CPC call docket one day prior to the date set for trial, and on Thursday for trials to be set the following Monday. The docket is set to begin at 8:30 a.m.
1. Out of custody defendants must appear in person unless there is a court order granting a waiver of appearance or a court order granting a telephone appearance. Defendants will not be automatically transported for trial assignment. See section VI. for information on transports of in-custody defendants.

2. Attorneys should report the expected length of trial and whether there are any pre-trial motions.
  3. No setover motions are allowed at call unless there are extraordinary and compelling circumstances that could not have been addressed as provided in Section V(B)(3).
  4. The parties may not call off their witness until the CPC court gives approval.
- B. The State shall staff four trial courtrooms per day. The court will assign DDAs or defense attorneys with more than one case to the same judge. Additional trials and courtrooms may be assigned as overflow if staffing levels permit.
- C. The CPC judge assigns cases first to the judges assigned to the misdemeanor docket. If all misdemeanor judges are in trial or otherwise unavailable, the CPC judge will consult with the Presiding Judge to determine if there may be another judge available for trial and may send the trial there if the defense attorney and DDA are available.
- D. Affidavits (i.e. Motions to Change Judge pursuant to ORS 14.250) must be announced at call and filed according to the procedures set out in those statutes ORS 14.260-14.270 and SLR 7.045. For purposes of these rules, the “Presiding Judge” in SLR 7.045 is the judge who made the trial assignment.
- E. Trials will be assigned priority in the following manner:
1. 1<sup>st</sup> priority will be in custody DV defendants.
  2. 2<sup>nd</sup> priority will be in custody defendants in non-DV cases. In determining priority, the court may take into consideration whether the defendant is in custody on the case set for trial or a different case.
  3. 3<sup>rd</sup> priority will be witnesses or interpreters flying in from out of town.
  4. 4<sup>th</sup> priority will be out of custody DV cases.
  5. 5<sup>th</sup> priority will be cases involving local interpreters.
  6. 6<sup>th</sup> priority will be date certain cases or cases that are three days or longer.
  7. 7<sup>th</sup> priority will be based on date of issuance.
  8. The CPC judge retains discretion to alter the priority depending on the circumstances present on the day of assignment. The trial judge should confer with CPC before altering the priority. If the CPC court is unable to timely confer, the trial judge has discretion to alter priority.

#### **VIII. DAY OF TRIAL:**

- A. The trial judge may take pleas, sign judgments of dismissal and order bench warrants. If a plea does not involve an attorney who is continuing in that court with a trial, the trial judge or clerk may consult with CPC about sending the case to a different judge in order to get started with trial.
- B. In determining the order of trials, the trial judge and attorneys must follow the priority list set out on the list of trials assigned for the day. The trial judge should confer with CPC before altering the priority. If the CPC

court is unable to timely confer, the trial judge has discretion to alter priority when compelling circumstances are present.

- C. The State shall report as soon as practicable to the court if it will not be able to proceed day of trial. The State may not call off witnesses without approval from the CPC judge. [Note: The State is not required to have all witnesses present prior to the time of entry of testimony if the State has had contact with the witness and has an estimated time of arrival. If a party's witnesses are not available to testify at the appropriate time for receipt of witness testimony, the case will be subject to dismissal within the trial court's discretion. ]
  
- D. Regarding trials setover because of a higher-priority trial:
  - 1. If the lower-priority trial involves an attorney for either the state or defense in the higher-priority trial, the trial judge may grant new call and trial dates within the next 30 days. No trial readiness hearing may be set. The defendant must receive notice of the dates in writing. If the parties cannot select a date within the next 30 days, the parties may place the case on the next available 9 a.m. Further Proceedings docket in CPC (so as to enable the priority trial to get started). The trial judge may sign an order waiving the defendant's presence at that FP if the trial judge is satisfied the defense attorney has sufficient contact with the client to communicate new call and trial dates.
  - 2. If the lower-priority trial does not involve an attorney in the higher-priority trial, the parties must report to CPC for assignment to another judge or setover. [Note: Witnesses may not be released without approval from the CPC judge. ]
    - a) If a party requests a setover due to late discovery, the trial judge should address the discovery dispute.
    - b) If the trial judge determines there was a discovery violation, the judge will determine if it warrants a dismissal of the case.
    - c) If the court does not dismiss the case, any setover request should go to CPC court for determination.
    - d) The trial judge should avoid starting a lower priority case until it is determined whether there will be a setover for a higher priority case.

## ADDENDUM

### DOMESTIC VIOLENCE CASES

This addendum address procedures from arraignment to trial that are particular to Domestic Violence cases. If an issue is not addressed in this addendum, the regular rules listed above apply.<sup>6</sup>

#### I. The A Docket:

- A. The A docket is designated for Domestic Violence misdemeanors. Whereas the other dockets rotate among judges, the A docket judge takes those cases for the entire month; however, domestic violence trials may be assigned to any judge.
- B. A docket trials occur Monday, Tuesday and Wednesday morning. The A docket schedule is set forth in full in the Grid attached below.
- C. Family court judges will hear VRO cases on Thursday mornings with overflow on Wednesday afternoons. VRO cases may be tracked with a pending DV misdemeanor by CPC or by the VRO family court judge.

#### II. Trial Readiness:

- A. Trial readiness is set 21 days from arraignment in cases designated as domestic violence.
- B. The Trial Readiness A docket begins at 8:30 a.m. whereas the other dockets begin at 9 a.m.

#### III. Pre-Trial Motions & Pleas

- A. Pleas for in custody cases, release hearings and modification of release hearings should be set first on the JC2 Thursday afternoon docket, then in the times designated for custody matters before the A Docket judge. Pleas (but not release hearings or release modification hearings) can be set on the CPC docket if the person will be released from custody, but should be done so sparingly due to limited DA availability and needs for victim notification.
- B. Matters must be scheduled with three days advance notice to allow the DA to contact victims.
- C. Motions for setovers are handled by the CPC court according to CPC rules.

#### IV. Call/Trial Assignment

- A. Trial assignments follow the structure set out in Section VII(E) in the CPC rules.
- B. Highest priority trials are assigned first to the A Docket judge with lower priority DV cases with different attorneys going to a different judge. If the A docket judge's case dismisses, the other trial stays with the assigned judge rather than reverting to the A docket judge. Non-DV cases may be assigned to the A Docket judge.
- C. If a defendant wishes to plea the day of call or the day of trial, the defense attorney must notify the DA as soon as possible upon learning the case will be a plea to enable the DA to check whether the victim wishes to be present for the plea, sentencing or both.

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<sup>6</sup> All DV Court procedures in place at the time of the transition of DV cases from the Family Law Department to the general bench remain as is unless addressed in this Addendum, the CPC rules above, or amended rules in the future.

1. Upon being assured the case is a plea, the DA may call off witnesses. Unlike setover requests, the parties need not wait for the CPC court's ok to call off witnesses when the case is affirmatively going to be a plea.
2. If the defendant is in custody, the defense attorney may request transport to court on the day of call for the plea; however, if the defense attorney learns the victim will not be able to present until a later time and wishes to be present, the defense attorney should cancel the transport. Otherwise, the case can proceed to plea on the day of trial.

**V. Trials:**

- A. Courts and attorneys should be alert for security and victim contact issues, especially in cases involving out of custody defendants.
- B. Courts and attorneys should use the forms particular to DV and VRO cases and be familiar with the law particular to those cases.
- C. DA's and defense attorneys should be aware of existing FAPA orders, stalking protective orders, juvenile court orders or family court orders and prepared to discuss matters with the trial court that may be discussed on the record without violating any confidentiality provisions.

# DOMESTIC VIOLENCE A DOCKET SCHEDULE 2019

	Monday	Tuesday	Wednesday	Thursday	Friday
<b>DV JUDGE – AM</b>	<div style="border: 1px solid black; padding: 2px; margin-bottom: 5px;">8:30 custody release or plea (cap of 1)<sup>7</sup></div> <p>9:00 Trial</p>	<div style="border: 1px solid black; padding: 2px; margin-bottom: 5px;">8:30 custody release or plea (cap of 1)</div> <p>9:00 Trial</p>	<div style="border: 1px solid black; padding: 2px; margin-bottom: 5px;">8:30 custody release or plea (cap of 1)</div> <p>9:00 Trial</p>	Trial continuing if needed/CPC Pleas/Family Court review	<div style="border: 1px solid black; padding: 2px; margin-bottom: 5px;">8:30 A Docket 8:35 VRO TR</div> <div style="border: 1px solid black; padding: 2px; margin-bottom: 5px;">9:30 DSP pleas &amp; status hrgs</div> <div style="border: 1px solid black; padding: 2px; margin-bottom: 5px;">10:00 pleas</div> <div style="border: 1px solid black; padding: 2px;">10:15 release hrgs/mod hrgs</div>
<b>DV JUDGE - PM</b>	<p>Trial</p> <div style="border: 1px solid black; padding: 2px; margin-top: 5px;">4 p.m. custody release or plea (cap of 1)<sup>7</sup></div>	<p>Trial</p> <div style="border: 1px solid black; padding: 2px; margin-top: 5px;">4 p.m. custody release or plea (cap of 1)</div>	<p>PV Hearings - JC2<sup>8</sup> (2 p.m. for P.O.'s)</p>	<p>Release hearings/cust. pleas/release mod hrgs– JC2</p>	
<b>CPC -- AM</b>		<p>DV Pleas <i>*Should be used as last resort due to scheduling conflicts for DA's &amp; time commitment for v's</i></p>	<p>DV Pleas</p>	<p>DV pleas</p>	

<sup>7</sup> If State, Defense and Judge all agree, hearing may be moved to 1:15 or other designated time.

<sup>8</sup> Judge to bring own clerk to JC2 dockets.

## ADDENDUM

### INTERPRETER SERVICES

- I. Attorneys must follow the provisions below for requesting interpreters.
  - A. UTCR 7.070 FOREIGN LANGUAGE INTERPRETERS
    - (1) If a foreign language interpreter is needed for a court proceeding, the party in need of an interpreter must notify the court in the manner required by the court as soon as possible, **but no later than four judicial days in advance of the proceeding**. For good cause shown, the court may waive the four-day advance notice.
  - B. MULTNOMAH COUNTY SUPPLEMENTAL LOCAL RULE 7.071
    - (1) For purposes of complying with UTCR 7.070, if a foreign language interpreter is needed, the party in need of an interpreter, prior to each proceeding in the action in which an interpreter is needed, must contact the Court Language Access Services Office in Multnomah County as provided in UTCR 7.070. Court Language Access Services schedules interpreters upon receiving the notification required by UTCR 7.070.
    - (2) The party in need of the interpreter must update the Court Language Access Services office promptly upon learning of a cancellation or any shortened or lengthened time frame for the interpreter in the scheduled proceeding.
    - (3) To schedule an interpreter, go to <http://courts.oregon.gov/languages/english/Pages/request-form.aspx> and fill out the form. There will be an automatic response back saying the Court Language Access Services received the form. Attorneys may contact the CLAAS office for Multnomah County by e-mail at [MUL.Interpreter.Services@ojd.state.or.us](mailto:MUL.Interpreter.Services@ojd.state.or.us) and by phone at 503-986-5688. The Court Language Access Services Office is available to take both e-mail and calls each business day from 8:00 am to Noon and from 1:00 pm to 5:00 pm.
  - C. Two interpreters will be assigned for trial. This may necessitate the court flying interpreters in from out-of-state. If the case is dismissed or if parties reach a settlement, they must contact the interpreter services office as soon as possible upon that determination. If the parties are requesting a setover when interpreters are flying in, the parties must communicate with the CPC or Presiding Judge and obtain permission before canceling interpreters.

**ADDENDUM  
MOTIONS TO CHANGE JUDGE**

Pursuant to SLR 7.045<sup>9</sup>, attorneys must present the original and one copy of the motion, order, and supporting affidavit to the Presiding Judge at ex parte by the close of business on the next judicial day following assignment. The CPC Judge or acting CPC Judge receives those motions in misdemeanor cases. Attorneys may deliver those documents to the Judge's Judicial Assistant. Prior to presenting the documents to the assigning judge, attorneys must serve a copy of the motion, affidavit and unsigned order on the judge being disqualified and any other party to the action.

**7.045 MOTION FOR CHANGE OF JUDGE**

(1) If a judge is assigned at Call or at a case assignment or scheduling conference before the Presiding Judge and a party intends to file a motion for a change of the judge assigned, the intention to file the motion must be announced at the time of assignment. An original and one copy of a motion, order, and supporting affidavit must be presented to the Presiding Judge at ex parte by the close of business on the next judicial day. Failure to submit all three documents timely, with the copy, will result in sanctions as provided by UTCR 1.090. The requesting party is responsible for serving a copy of the motion, affidavit and unsigned order on the judge being disqualified before presentation to the presiding judge and each other party to the action who is not in default.

(2) For Judges assigned by order of the Presiding Judge and the order did not arise at Call or a case assignment or scheduling conference, the following procedures shall apply:

If a party is notified at an *ex parte* appearance of the name of the assigned motion (a) judge and the party intends to disqualify the assigned judge, the party must announce the intent to the Presiding Judge at the time of assignment and present to the Presiding Judge at ex parte by the close of the next judicial day an original and one copy of the motion, order and affidavit. Failure to submit all three documents timely, with the copy, will result in sanctions as provided by UTCR 1.090. The requesting party is responsible for serving a copy of the motion, affidavit and unsigned order on the judge being disqualified before presentation to the presiding judge and each other party to the action who is not in default.

In any other situation than set out in subsection (a), if a party intends to disqualify (b) the assigned motion judge, that party must, by the close of the next judicial day after receiving actual notice of the judge assigned, appear at *ex parte* to present an original and one copy of a motion, order, and affidavit. The requesting party is responsible for serving a copy of the motion, affidavit and unsigned order on the judge being disqualified before presentation to the presiding judge and each other party to the action who is not in default.

If a motion for change of judge under this provision is allowed, the Presiding (c) Judge may assign a replacement judge and announce that assignment at the *ex parte* presentation required under subsections (a) and (b) above. Actual notice of the new assignment must be provided to all appearing parties by the party appearing at *ex parte*. If a new judge is not announced at the *ex parte* proceeding, a written notice of the new assignment will

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<sup>9</sup> Per the 2019 Supplementary Local Rules



be provided by the court to each appearing party by sending it to the party's electronic or US Postal Service mailing address for purposes of the action.

(3) If a judge is assigned in any other manner, an original and one copy of a motion order and supporting affidavit, must be presented to the Presiding Judge at *ex parte* by the close of the judicial day following actual notice of the assignment. A copy of the motion, affidavit and unsigned order must be served on the judge being disqualified by the moving party before presentation to the presiding judge and each party to the action who is not in default.

(4) In small claims, FEDs, violations and misdemeanor offenses, the Presiding Judge may assign a motion for change of judge to another judge for decision.

(5) For purposes of ORS 14.250 et seq. and this Rule, a judge who enters rulings or orders in any arraignment, pre-trial release request at the time of arraignment, pre-trial conference, Trial Readiness Conference pursuant to SLR 7.015, or daily Call pursuant to SLR 7.055, shall not be considered to have ruled on a particular matter within the meaning of ORS 14.260(3). A party shall not waive any right pursuant to ORS 14.250 et seq. as to such judge by failing to move for change of judge at the time of appearance before such judge at any proceeding listed in this paragraph.